

*Rakoff, J.*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
KENNI WALKER and NATASHA McLEOD,  
individually and on behalf of all others similarly  
situated,

Plaintiffs,

-against-

HUNTER ROBERTS CONSTRUCTION  
GROUP, LLC,

Defendant.  
-----X

CV 09-2593  
Rakoff, J.

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 1-6-10

**STIPULATION AND [PROPOSED] ORDER FOR DISMISSAL WITH PREJUDICE**

IT IS HEREBY STIPULATED AND AGREED, by and between Plaintiffs, KENNI WALKER AND NATASHA McLEOD, the individuals who opted-in to participate in this action ("Opt-in Plaintiffs," collectively, with Plaintiffs Walker and McLeod, referred to as "Plaintiffs"), and Defendant HUNTER ROBERTS CONSTRUCTION GROUP, LLC, collectively referred to with the Plaintiffs as "Parties," by and through their undersigned counsel, that this action (the "Lawsuit") shall be dismissed with prejudice in its entirety, and that:

1. In this Lawsuit, Walker and McLeod asserted claims under the Fair Labor Standards Act of 1938 (the "FLSA") and the New York State Labor Law ("Labor Law") in their own behalf and on behalf of others, whom they alleged to be "similarly situated" to them. The Lawsuit initially was commenced on March 20, 2009; Plaintiffs Walker and McLeod filed an Amended Complaint on July 28, 2009.

2. Plaintiffs Walker and McLeod claimed that Defendant misclassified Assistant Project Managers ("APMs"), the position Plaintiff Walker held with Defendant, and

Administrative Assistants ("Assistants"), the position Plaintiff McLeod held with Defendant, as exempt for purposes of the FLSA and the Labor Law.

3. In its Answers to the Complaint and Amended Complaint, filed respectively on April 20, 2009 and August 25, 2009, Defendant denied all material allegations and further denied that this matter should proceed as a collective action.

4. After the parties agreed to mediate this matter, the parties negotiated, and the Court approved, Collective Action Notices, which were sent to all APMs and Assistants employed by Defendant within the 3-year FLSA limitations period.

5. In addition to Plaintiffs Walker and McLeod, seven Opt-in Plaintiffs joined the Lawsuit. Each of the Opt-in Plaintiffs filed "Consent To Become A Party Plaintiff" forms with the Court.

6. After a full-day of mediation with Ruth D. Raisfeld on October 28, 2009, the parties agreed to settle Plaintiffs' claims and have negotiated a Collective Action Settlement Agreement and Release of All Claims ("Settlement Agreement"), which has been agreed to and signed by all Parties (including each individual Plaintiff).

7. The terms of the Settlement Agreement are the result of an arm's-length negotiation between the Parties and their counsel, facilitated by Ms. Raisfeld, an experienced employment law mediator.

8. The Parties were given a reasonable period of time to consider the terms of the Settlement Agreement.

9. The Parties are entering into this Stipulation and the underlying settlement because the Parties wish to avoid the uncertainty, inconvenience, expense, and delay of litigation, and desire to resolve, fully and finally, all claims that were, or could have been, asserted in the Lawsuit, and intend to settle, waive, and release any and all claims relating to non-payment of wages, overtime, premium or other payments or wages, or other claims of said type or nature (including, but not limited to, claims for liquidated or other damages, attorney's fees, interest, costs, or other relief of any kind whatsoever).

10. Each Plaintiff has authorized and instructed counsel to enter into this Stipulation of Dismissal with Prejudice and each has signed the Settlement Agreement.

WHEREFORE, the above-captioned action is dismissed with prejudice in its entirety.

By: Rachel Bien  
Rachel Bien, Esq.

OUTTEN & GOLDEN LLP  
3 Park Avenue, 29<sup>th</sup> Floor  
New York, NY 10016  
(212) 245-1000  
*Attorneys for Plaintiffs*

Dated: December 22, 2009

By: Wendy J. Melik  
Wendy J. Melik, Esq.

JACKSON LEWIS LLP  
58 South Service Road, Suite 410  
Melville, NY 11747  
(631) 247-0404  
*Attorneys for Defendant*

Dated: December 22, 2009

SO ORDERED on this 5<sup>th</sup> day of January, 2009 2010

[Signature]  
United States District Judge